REMARKS

The present invention is directed to an improvement in broadcasting systems to efficiently use available broadcasting bandwidth and interactive content provided to the subscriber or user of information associated with a normal broadcast program. A specific program which can provide advertisements, auxiliary data, and content applicable to interactive user selections is delivered with the normal broadcast program. The present invention is directed to a field of endeavor wherein a large number of companies, employing skilled software and hardware engineers, are trying to optimize the ability to provide a transparent presentation of information to the user without any delay or interruptions.

While a number of companies have attempted various improvements in this field, it is believed that the present invention, as defined by the current claims, is contributing a novel solution using the presentation of data content in a frequency or bandwidth division multiplexing approach that is not obvious.

Referring to Pages 25-26 and Figures 1, 5 and 9 of the present application, data modules and event messages are prepared, for example, within the system structure shown in Figure 1, and presented as graphically disclosed in Figure 5, to achieve the advantages set forth in the flowchart of Figure 9. As set forth in the claims, a script generating featuring and a message generating feature is provided. Reference can also be made to Page 19, Line 22 and the subsequent description of our present specification, to appreciate the generating of the script for storing and reproducing data of the specific program, to be performed in a novel way corresponding with scheduling the event message and transmitting the generated script. The script can indicate a procedure for deleting content, reading and reproducing content data, or writing/receive contents to a buffer on the receiver side in correspondence with the event message.

The Office Action rejected Claims 1-4, 9, 11, 12 and 14-23 over either the *Elderling*

(U.S. Patent No. 6,615,039) alone or in combination with secondary references such as the

Suzuki (U.S. Patent No. 6,401,243). The time division multiplexing approach of the *Elderling*

reference is the lynch pin to this rejection. For example, the Office Action contends that the

Elderling reference would teach selecting time periods and sequences relative to a designated

bandwidth that would permit the repeated sending of small burst or packets of data whenever

there is extra bandwidth. Applicant respectfully traverses this interpretation of *Elderling*.

Even, if hypothetically, the prior art *may* be modified in the manner suggested by the

Examiner does not make a modification obvious unless the prior art suggested the desirability of

the modification. *In re Fritch*, 23 USPQ 2d 1780, 1783-84 (Fed. Cir. 1992).

> [T]he level of skill in the art is a prism or lens through which a judge or jury views the prior art and the claimed invention. This reference point prevents these deciders from using their own insight or, worse yet, hindsight, to gauge obviousness. Rarely, however, will the skill in the art component operate to supply missing knowledge or prior art to reach an obviousness judgment. Skill in the art does not act as a bridge over gaps in substantive presentation of an obviousness case, but instead supplies the primary guarantee of objectivity in the process. *Al-Site Corp. v. VSI International, Inc.*, 50 U.S.P.Q.2d 1161 (Fed. Cir. 1999) (citations omitted).

The Federal Circuit has addressed this issue in the case of *In re Rouffet*, 47 U.S.P.Q.2d

1453, 149 F.3d 1350 (Fed. Cir. 1998). In *Rouffet*, the Court noted that virtually all inventions are

combinations of old elements and concluded that:

> An examiner may often find every element of a claimed invention in the prior art. If identification of each claimed element in the prior art were sufficient to negate patentability, very few patents would ever issue. Furthermore, rejecting patents solely by finding prior art corollaries for the claimed elements would permit an examiner to use the claimed invention as a blueprint for piecing together elements in the prior art to defeat the patentability of the claimed invention. Such an approach would be 'an illogical and inappropriate process by which to determine patentability.' *Id.* at 1357.

The Court pointed to the absence of any teaching *in the cited references* for making the proposed modifications, and found that the Board had *reversibly erred* in determining that the invention was rendered obvious because there was no identification of motivation to choose the selected feature.

A person of ordinary skill in this field, given the disclosure of the *Elderling* reference, would quickly appreciate, as verified by the actual claims secured by the *Elderling* reference, that a plurality of advertisements can be simultaneously forwarded in a distribution system, to target different subgroups, and such advertisements can be integrated into program frames and individually presented to the targeted subgroup. As noted in the specification, subgroups can be subjectively determined based upon geographic location, income levels, nationalities, subject matter interest, etc.

In the schematic of Figure 3, routers are capable of dividing and providing content to the different subgroups, including a simultaneous presentation of advertisements to different subgroups. Different protocols are suggested depending upon the medium in which the transmission occurs, such as over the Internet or over a cable network, see, for example, Figure 6 and Column 7, Lines 47-58. It is contemplated that the advertisement can be received over an extremely long period of time relative to the actual duration of the playing of an advertisement at normal broadcast speed. See Column 8, Lines 13-22.

The *Elderling* reference teaches using an MPEG transport stream to insert advertisements at splice points with the MPEG encoder matching any delay of splicing points to a given value.

The Office Action relied upon Column 10, Lines 36-47 as follows:

> In an exemplary embodiment of this aspect of the invention, the packets of
> auxiliary data are inserted in between the packets of the primary programs
> whenever the distribution channel is idle for a time interval that is at least
> as long as the time interval needed to transmit the next packet of auxiliary
> data. In addition, MPEG-compliant program map data illustrating the
> location of each of the primary program or auxiliary data stream

components in the multiplexed data stream are inserted into the data stream for use at the receivers. Such program maps are described in sctn. 2.4.4 of the MPEG system layer documentation, ISO/IEC 13818-1.

The Office Action contended that a person of ordinary skill in this field would interpret the above information as sending data whenever there is an idle time interval or spare bandwidth, as being equivalent to repeatedly sending packets or bursts of the same data. Applicant respectfully traverses this interpretation, since the *Elderling* reference is not addressing nor teaching such a feature to a person of ordinary skill in this field. Actually, the *Elderling* reference teaches sending a program map along with the distribution data stream, to the selected subgroup to enable an extraction of the selected primary program and auxiliary data streams at the receiver's side. See, for example, Column 10, Line 57 through Column 11, Line 21. The *Elderling* disclosure assumes that the transmission of the full data is received and appropriately broadcasted or cached and inserted in accordance with the program map set forth in the MPEG system layer documentation.

Thus, in the broader context of the teaching of the *Elderling* reference to a person of ordinary skill in the field, it is respectfully submitted there is no basis for the assumption of repeatedly sending the same data whenever there is spare bandwidth. The *Elderling* reference is actually teaching the selected presentation of advertisement simultaneously to different subgroups pursuant to the program map data that is sent as control information.

In view of the above comments and the further clarification set forth in the current claims, it is believed the case is now in condition for allowance and early notification of the same is requested.

If the Examiner believes a telephone interview will assist in the prosecution of this application, the undersigned attorney can be contacted at the listed phone number.

I hereby certify that this correspondence is being transmitted via facsimile to the USPTO at 571-273-8300 on May 15, 2006.
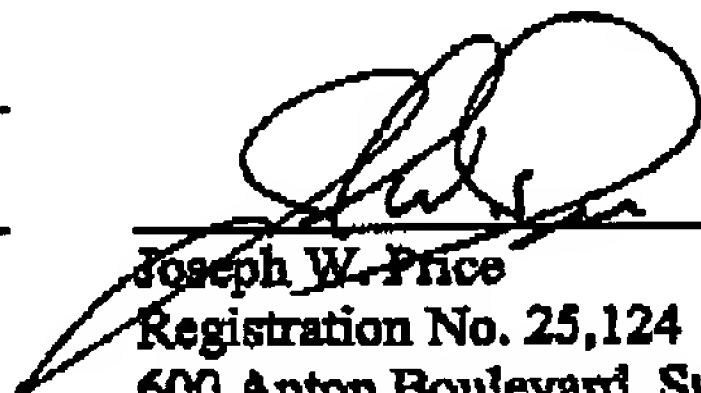
By: _____ Sharon Farnus _____

Signature

Dated: May 15, 2006

Very truly yours,

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